

WEINSTEIN & RILEY, P.S.
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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:	§	CASE NO. 16-10158-tmd
Michael E Humphreys and Debra D	§	
Humphreys,	§	
Debtors	§	Chapter 7
Specialized Loan Servicing LLC	§	
Movant,	§	Judge Tony M. Davis
v.	§	
Michael E Humphreys and Debra D	§	
Humphreys,	§	
Debtors,	§	
and	§	
Ron Satija	§	
Trustee,	§	
Respondents.	§	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO 300 TALWOOD
TRACE, JACKSONVILLE, FLORIDA 32259 AND WAIVER OF THIRTY-DAY
REQUIREMENT PURSUANT TO § 362(E)**

This pleading requests relief that may be adverse to your interests.
If no timely response is filed within 14 days from the date of service, the relief requested
herein may be granted without a hearing being held.
A timely filed response is necessary for a hearing to be held.

Specialized Loan Servicing LLC ("Movant"), as Servicer for FV-I, INC. IN TRUST FOR MORGAN STANLEY MORTGAGE CAPTIAL HOLDINGS LLC ("Secured Creditor"), hereby moves this Court, pursuant to 11 U.S.C. § 362 and Bankruptcy Rule 4001, for relief from the automatic stay with respect to certain real property having an address of 300 Talwood Trace, Jacksonville, FL 32259 (the "Property"). In support of this Motion, Movant respectfully states:

1. A petition under Chapter 7 of the United States Bankruptcy Code was filed by Michael E. Humphreys and Debra D. Humphreys (collectively "Debtors") on February 10, 2016.
2. Debtors had executed a promissory note dated February 11, 2000 in the original principal amount of \$211,200.00 (the "Note"). A copy of the Note is attached hereto as Exhibit A. On August 21, 2000, a Loan Modification Agreement, to provide for modification of the fixed interest rate, was executed by the Debtors. A copy of the Loan Modification Agreement is attached hereto as Exhibit B.
3. On February 11, 2000, Debtors executed a Mortgage (the "Mortgage"), wherein all obligations of Debtors with respect to the Note and Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit C.
4. On June 6, 2016, the Mortgage was assigned to Secured Creditor. A copy of the Assignment(s) of the Mortgage is attached hereto as Exhibit D.
5. The legal description of the Property is:

LOT 50, JULINGTON CREEK PLANTATION PARCEL 30, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 38, PAGES 1 THROUGH 7, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

6. Movant services the loan on the Property referenced in this motion. In the event the automatic stay in this case is modified, this case dismisses, and/or Debtors have obtained a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of Movant.

7. As of September 19, 2016, the total amount due on the Note is at least \$207,360.12 consisting of an unpaid principle balance of \$177,357.54, interest of \$22,060.08, escrow advances of \$5,245.00, late charges of \$1,244.85, and corporate advances of \$1,452.65.

8. In addition to the other amounts due reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$850.00 in legal fees and \$176.00 in costs. Movant reserves all rights to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

9. The following chart sets forth the number and amount of post-petition payments due pursuant to the terms of the Note that have been missed by Debtor. A true and correct copy of an accounting of the payments made on this loan is attached as Exhibit E.

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
8	03/01/2016	10/01/2016	\$2,206.83	\$17,648.24

10. The estimated market value of the Property is \$345,000.00. The basis for such valuation is Debtors' Schedules (Docket #1).

11. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, and itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of Movant's right to seek relief from the automatic stay and foreclose if necessary.

12. As per the Debtors' Statement of Intention, the Debtors have surrendered all interest in the Property (Docket #1).

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

- (i) Relief from the stay allowing Movant to proceed to enforce its remedies to foreclose upon and obtain possession of the Property;
- (ii) That the order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code;
- (iii) That the 14-day stay described by Bankruptcy Rule 4001 (a)(3) be waived;
- (iv) For such other relief as the Court deems proper;
- (v) Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

Dated: October 14, 2016

Respectfully submitted,

WEINSTEIN & RILEY, P.S.

By: /s/ Charles L. Kennon, III

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Attorney for Movant

CERTIFICATE OF CONFERENCE

Weinstein & Riley, P.S. represents the Movant on the foregoing Motion. The undersigned, an attorney, employed by Weinstein & Riley, P.S., states that prior to filing the foregoing Motion they did the following:

On October 14, 2016, counsel for Movant sent a message by e-mail to Debtor's counsel advising counsel that Movant was contemplating stay relief and offering to discuss an amicable resolution to the matter. As of the date of this motion, Debtors' counsel has advised that the Debtors have surrendered the Property.

Dated: October 14, 2016

Respectfully submitted,

WEINSTEIN & RILEY, P.S.

By: /s/ Charles L. Kennon, III
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CERTIFICATE OF SERVICE

I, the undersigned, certify under penalty of perjury pursuant to 28 U.S.C. Sec. 1746 that on October 21, 2016, a true and correct copy of the Motion for Relief from Stay, Exhibits, and Proposed Order was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the following parties:

DEBTOR:

Michael E. Humphreys
511 Silver Creek Dr.
Leander, TX 78641

CO-DEBTOR:

Debra D. Humphreys
511 Silver Creek Dr.
Leander, TX 78641

DEBTORS' ATTORNEY:

Michael J. Pledger
901 Mopac Expwy S., Suite 300
Austin, TX 78746

CHAPTER 7 TRUSTEE:

Ron Satija
P.O. Box 660208
Austin, TX 78766

Dated: October 14, 2016

Respectfully submitted,

By: /s/ Jody Reeves
An employee of Weinstein & Riley, P.S.